

Memorandum

TO: Sen. Andy Wells and Rep. Sarah Stevens—Co-Chair and Vice-Chair of the Joint Legislative Administrative Procedure Oversight Committee

FROM: T.C. Morphis (General Counsel for the Town of Robbins) and Brady Herman

DATE: September 16, 2019

RE: Response to the Requirements set forth in Section 3 of Session Law 2019-198 (Senate Bill 584) for the Town of Robbins, N.C.

Attached is the response of the Town of Robbins, North Carolina to the requirements set forth in Section 3 of Session Law 2019-198 for towns with a population of 1,000 or more. The attached document contains a list of all Robbins ordinances that create criminal offenses pursuant to G.S. 14-4(a), with brief descriptions of the prohibited conduct. Additionally, here is a [link](#) to the Town of Robbins website for a reference to the ordinances summarized.

If you have any questions about this Memorandum, please contact either T.C. Morphis by email at morphis@broughlawfirm.com, or Brady Herman at bherman@broughlawfirm.com, at The Brough Law Firm, tel: (919)-929-3905. Also, please acknowledge receipt of this Memorandum.

TITLE IX: GENERAL REGULATIONS

CHAPTER 91: STREETS AND SIDEWALKS

Sec. 91.02—Obstructing Streets: Prohibits obstructing any street, sidewalk, alley or public road within the Town limits without the permission of the Mayor or Board of Commissioners.

Sec. 91.03—Littering on Streets and Sidewalks: Prohibits any person, firm, or corporation from (1) placing, throwing or dumping any paper, handbill, advertising matter, trash, or other substance of that kind upon any street, alley, square, park, sidewalk, or other Town public place; or (2) placing any such paper, handbill, advertising matter or other substance upon or within any porch, automobile, vehicle, back lot, or other public place within the Town in a manner that may be readily moved or blown from the position so placed by wind or for other cause to Town public streets or sidewalks.

Sec. 91.04—Objects Remaining on Sidewalk Overnight: Prohibits any object or display to remain overnight on any sidewalk, pedestrian way, or other exterior area intended for public pedestrian traffic unless that object or display is (1) placed immediately adjacent to a building, (2) extends no more than 38 inches into the pedestrian way, (3) is no more than 48 inches in height, and (4) is adjacent to the premises of the person who places that object or display.

Sec. 91.15—Excavations; Permit Required: Prohibits making any excavation or opening, or digging any ditch, trench, tunnel or hole in, along, across, or under any public street, sidewalk, or other public place for the purpose of laying any such pipes, wires, or poles therein unless a written permit is obtain from the Town. A permit will not be required where the work is performed under a contract with the Town, provided that the work does not required obstruction of a Town sidewalk or street, in which case the party performing the work must notify the Town at least two hours before obstructing the street or sidewalk, unless prevented by sudden emergency.

Sec. 91.17—Street Repair; After Excavation: When any part of any public street, sidewalk, alley or other public place of the Town is to be torn or dug up for any purpose, requires the person making the excavation or opening to refill the excavation or opening in accordance with the Town's standards and specifications.

Sec. 91.18—Excavations; Leaving Unprotected: Prohibits any person, firm or corporation who obtains a permit under the sections of this Chapter to do any excavation of any kind which may create or cause a dangerous condition in or near any public street, alley, sidewalk or other public place without placing and maintaining proper guard rails or other sufficient warnings that notifies the public of the excavation or work, and requires to protect all persons using the reasonable care from injuries on account of the excavation or work.

Sec. 91.19—Streets Not to be Damaged by Tractors or Harrows: Prohibits any person, firm or corporation from dragging, running, or causing to be dragged or run any harrow or other implement, engine, machine or tool upon any asphalt or paved street of the Town, or which will likely injure or cut the surface thereof.

Sec. 91.20—Sidewalk Construction: Prohibits building any sidewalk without a written permit from the Town.

Sec. 91.21—House Moving: Prohibits moving any house or building on or across the public streets or sidewalks without the written consent of the Board and depositing a bond to cover damage done to any street or sidewalk or to any property.

Sec. 91.22—Damage to Town Property: Prohibits (1) injuring, tampering with, removing, painting on or defacing any bridge, culvert, ditch or drain, sign or sign post, street light, traffic signal, or other Town property on the public streets or sidewalks or elsewhere; or (2) willfully and wantonly injuring any pavement or other property located belonging to the Town or injuring any gate, sign or other property situated in the Town and owned by private individuals.

Sec. 91.23—Driveways; Permit Required: Prohibits constructing, reconstructing, repairing, altering, or grading any driveway on the public streets, unless a written permit has been issued by the Town.

CHAPTER 93 ANIMAL CONTROL

Sec. 93.03—Cruelty to Animals: Prohibits (a) molesting, torturing, depriving of necessary substances, killing, cruelly beating in any manner, wounding, injuring, poisoning, burning, or otherwise causing conditions detrimental to any animals; (b) teasing, annoying, disturbing, molesting, or irritating any animal that is confined to the owner(s) premises; (c) any owner or keeper to fail to provide his or her animal with the proper shelter and protection from weather, and requires them to provide adequate food and water to keep said animals in good health and comfort; (d) tethering, chaining or fastening any animal in such a manner as to permit it to be upon any public sidewalk or street, or to leave it unattended, or to tether, chain, or fasten an animal in a manner so as to cause injury or pain; (e) placing or confining or allowing the animal to be confined in a manner that it must remain in a motor vehicle or trailer under conditions, or for periods of time as may endanger the health or well-being of the animal due to heat, lack of food or water, or any circumstances which might cause suffering, disability, or death; (f) tethering any fowl, provided that fowl used in the training or demonstration of hunting dogs are exempt from this provision; (g) selling or offering for sell any living chickens, ducklings, or other fowl or rabbits under eight weeks of age; (h) coloring, dying, staining or otherwise changing the natural color of baby chicks, other fowl or rabbits; and (i) willfully setting a trap for the sole purpose of trapping domestic animals with the exception of live, humane traps.

Sec. 93.04—Confinement and Control of Vicious or Dangerous Domestic Animals: Prohibit any person to keep any vicious, fierce, or dangerous domestic animals within county limits unless it is confined within a secured building or enclosure, or it is restrained by means of a leash or other similar device firmly under control of the animal at all times.

Sec. 93.05—Animals Creating Nuisance Prohibited: Prohibits (1) any owner or keeper to permit an animals or animals in his or her care to create a nuisance, and (2) a person to fail to refuse or abate the nuisance as required by this Chapter.

Sec. 93.06—Luring, Enticing and Seizing an Animal: Prohibits (1) enticing or luring any animal out of an enclosure or off the property of its owner or keeper, or (2) seizing any animal while the animals is held or controlled by it owner or keeper on his or her property.

Sec. 93.08—Nondomestic Animals Prohibited: Prohibits (1) possessing or harboring any non-domestic animal that is dangerous to persons or property or that has the potential for being a dangerous animal, except this section does not apply to bona fide circuses or petting zoos, or (2) possessing a wolf, coyote, or a wolf and/or coyote hybrid except as permitted by the State Wildlife Commission.

Sec. 93.09—Interference with Enforcement: Prohibits interfering with, hindering, or molesting the employees of the Health Department or persons duly authorized by the Town or this Chapter in performing their duties, or releasing any animal in the custody of those persons.

Sec. 93.11—Livestock: Prohibits keeping or maintaining any cow, horse, pony, sheep, or other livestock on any lot or within an pen, stable, or other enclosure or building within the Town limits, unless the shipment or assembling of livestock are not kept within the corporate limits for more than 24 hours prior to shipment or subsequent unloading. Livestock for domestic, rather than commercial use may be kept on property in an industrial district within the Town if the property (1) is owned by a person who owns adjacent property on which the livestock is permitted; (2) is not contiguous with the primary corporate limits; and (3) is no greater than one-acre in size.

Sec. 93.12—Bird Sanctuary: Prohibits killing, trapping, or otherwise taking any bird within the corporate limits except hawks, crows, starlings, pigeons and domesticated fowls.

Sec. 93.13—Keeping of Fowl Prohibited: Prohibits keeping or maintaining any chicken, turkey, duck, or other fowl, or allowing any fowl to be at large within the corporate limits within the Town.

Sec. 93.14—Chicken Houses: Prohibits any chicken houses to be built or required for commercial purposes within the limits of the Town.

93.26—Collar and Identification: Requires all owners of any dogs kept, harbored or maintained in the Town to properly identify the dog by a collar or other device showing the name of the dog, the owner, address, and telephone number of its owner.

Sec. 93.27—Running at Large Prohibited: Prohibits any owner or keeper to permit his or her dog to run at large (as defined in this Chapter) at any time within the Town limits.

Sec. 93.32—Nuisance: Prohibits any owner to fail to exercise proper care and control of his or her animals so as to prevent the dog from becoming a nuisance as defined in this Chapter.

Sec. 93.33—Rabies Vaccination: Prohibits any person to be an owner of a dog that is not properly vaccinated against rabies. The owner of the dog is required to maintain proof of the vaccination in accordance with the State and County Board of Health.

Sec. 93.34—Notice of Exposure to Rabies: Requires the owner of a dog who believes to have rabies or that has been bitten by a dog suspected of rabies to confine the dog by leash or chain on the owners premises and notify animal control or other police officer in the Town that dog has been exposed to rabies. Prohibits any person knowing or suspecting a dog who has rabies to allow the dog to be taken off his or her premises or beyond the limits of the Town without the written permission from the Town Police Chief.

Sec. 93.45—Compliance with State Laws: Prohibits any animal owner or other person to fail to comply with the state laws relating to the control of rabies.

Sec. 93.46—Vaccination of Dogs, Cats, and Equine: Prohibits any owner or keeper to fail to provide current vaccination against rabies for any dog or cat four months of age or older and equine six months of age or older, and only animal vaccine licensed by the U.S. Department of Agriculture and approved by the Commission shall be used on the animals.

Sec. 93.47—Rabies Tag and Certificate: Prohibits any dog or cat owner or keeper to fail to provide the animals with a collar or harness to which are securely attached a current rabies tag as issued under this section and ID tag bearing the owner(s) name and/or telephone number. Also prohibits any person to use for any animal a rabies vaccination tag and/or certificate issued for any other animal.

Sec. 93.52—Unlawful Killing or Releasing of Certain Animals: Prohibits (1) killing or releasing any animal under observation for rabies, or any animal under observation for biting a human, or (2) to remove the animal from the County without the written permission from the Health Director.

Sec. 93.53.—Failure to Surrender Animal for Confinement or Destruction: Prohibits failing or refusing to surrender any animal for confinement or destruction as required in this Chapter when the demand is made by the Health Director.

Sec. 93.54—Failure to Report/Submit Suspected Rabies Cases for Evaluation: Prohibits failing to report and/or submit to a licensed veterinarian or animal control officer any domestic or wild animals with symptoms compatible with rabies.

Sec. 93.72—Keeping Stray Animals; Requirements; Failure to Surrender: Prohibits (1) knowingly and intentionally harboring, feeding, keeping in possession by confinement or otherwise allowing to remain on his or her property, any animal which does not belong to him or her, unless he or she notifies the Health Director within 72 hours of the animal(s) coming into possession; or (2) refusing to surrender any stray animal to animal control or any person duly authorized by the Health Director at his or her demand.

Sec. 93.85—Security Dogs: Prohibits (1) keeping, maintaining, or using any dog within the County for the purpose of protecting any commercial or industrial property, or person on the property, unless a permit has first been obtained from the Health Director and in accordance with this section; or (2) keeping maintaining, or using any patrol or security dog in the County for the purpose of protecting residential property, or person on the property, unless a permit has first been obtain by the Health Director and in accordance with this section.

TITLE XI: BUSINESS REGULATIONS

CHAPTER 115- FARMERS DAY

Sec. 115.07—Organization: “Farmers Day” is an event put on by the Town of Robbins and Robbins Fire Rescue Association. The Farmer Day Committee has the responsibility of planning and organizing the event, including designating the routes, areas for livestock, and the locations and times for vendors, booths, displays, entertainment and other activities during Farmers Day. The Robbins Fire and Rescue Association is responsible for the issuing of all permits required for the event and for reporting all expenditures.

Sec. 115.02—Permit Required: Prohibits establishing or participating in outdoor booths, displays, entertainment or vending in the Town during the “Farmer Day” event unless a permit for that activity has been properly issued.

Sec. 115.03—Affirmative Defense to Livestock Violation: Establishes an affirmative defense to the Town’s Livestock ordinance where livestock may be present within the Town, but only while properly participating in the Farmers Day parade or while in area designated for livestock by the Committee. Requires signs to be posted indicated “No livestock beyond this point” to be posted to identify the areas where horses and livestock me be located. Prohibits, after 8:00 p.m., the riding or leading of a horse or other livestock in the Town on Farmers Day.

Sec. 115.04—Startling Livestock: Prohibits making any noise or taking any action either for the purpose of startling, scaring, spooking, or otherwise causing livestock to become unmanageable, or with a reasonable likelihood of causing such a reaction.

TITLE XIII: GENERAL OFFENSES

CHAPTER 130: MISCELLANEOUS OFFENSES

Sec. 130.01—Discharge of Firearms: Prohibits (1) firing or discharging any rifle, gun, pistol, pellet gun, air gun, air rifle, bow and arrow, bean shooter, India rubber sling, cannon cracker, or other fireworks within the Town whether on or off private premises; and (2) knowingly and willfully permitting his or her child who is a minor under the age of 18 years old to discharge, fire, shoot, or operate any air rifle, BB gun, or pellet gun within the Town limits. These provisions do not apply to situations where the discharging of firearms is for a necessity, such as legal protection and defense to person and property.

Sec. 130.02—Disturbing Public Meetings: Prohibits behaving in a boisterous or indecent manner or to create any disturbance at or near any public entertainment or meeting.

Sec. 130.03—Injuring Town Property: Prohibits injuring, damaging, defacing, trespassing upon, breaking or injuring any property belonging to the Town, or situated on Town property.

Sec. 130.04—Unnecessary Noise: Prohibits creating, or assisting in creating, permitting, continuing or permitting the continuance of any unreasonably loud, disturbing, and unnecessary noises within the Town. The following is a non-exclusive list of acts that constitute under the code to be loud, disturbing and/or unnecessary noises in violation of this section: (a) any horn or signal device or any device on any automobile, bus, or other vehicle while in motion or not in motion for an unnecessary and unreasonable amount of time, except to alert another vehicle that is approaching and apparently out of control or as a danger signal intended for the deceleration of another vehicle; (b) using of any gong or siren upon any vehicle or attached to any building or premises which disturbs the quiet or repose of persons in the vicinity; (c) using or operating any musical instrument, phonograph, radio, loudspeaker, or other instrument or sound amplifying devices so loudly as to disturb persons in the vicinity thereof, or in a manners that constitutes as a public nuisance, however, on application to the Town Mayor, permits may be issued to responsible organizations to produce programs in music, speeches, and general entertainment; (d) keeping any animal or bird that causes frequent or unnecessary noises that disturb the

comfort and repose of those in the vicinity; (e) using any automobile or other type of vehicle that is so out of repair as to create loud or unnecessary grating, grinding, rattling or other noises;

(f) blowing of any steam whistle attached to a stationary boiler; (g) discharging any exhaust of any steam engine, stationary internal combustion engine, or motor vehicle, except through a muffler or other similar device that effectively prevents loud or explosive noises therefrom; (h) using any mechanical device operated by compressed air unless the noise is effectively muffled and reduced; (i) erecting, demolating, altering, or the repairing of any building in a residential or business district other than between the hours of 7:00 a.m. and 6:00 p.m. on weekdays, except in emergencies; (J) creating excessive noise on any street adjacent to a school, church, hospital or other institution that interferes with the activities taking place therein, provided there are conspicuous signs indicating that these institutions are adjacent to the streets; (k) the creation of loud and excessive noises in connection with the unloading or loading of any vehicle or the opening of any boxes, crates, bales, and containers; (l) shouting or crying within the corporate limits that disturbs the peace and quiet of the neighborhood; (m) using any drum, loudspeaker, or other instrument or device for the purpose of attracting attention by the creation of the noise to any performance, show, sale or display of merchandise; (n) using any mechanical loudspeakers or amplifiers from any trucks or other motor vehicles for advertising purposes or other purposes except where specific license is received from the Board of Commissioners; and (o) conducting, operating, or maintaining any garage or filling station in any residential district as to cause or create loud or offensive noises to be emitted from the hours of 11:00 p.m. and 7:00 a.m.

Sec. 130.06—Vandalism at the Reservoir: Prohibits vandalizing or swimming in the reservoir located in the Town.

Sec. 130.07—Alcoholic Beverages in Public Places: Prohibits consuming, serving, or drinking any wine, beer, whisky, or other alcoholic beverages on any public street, boulevard, alley, park, sidewalk, or other public building within the Town.

CHAPTER 131: LITTERING

Sec. 131.01—Littering Prohibited: Prohibits throwing or depositing any trash, refuse, garbage, building material, cans, bottles, broken glass, paper or any type of litter on any public street or sidewalk, or any private property except with written permission of the owner or occupant of the private property.

Sec. 131.02—Littering from Vehicles: Prohibits any driver or passenger of a vehicle to throw or deposit litter on any street or other public place within the Town, or on private property.

Sec. 131.03—Maintenance of Public Areas: Requires every owner, lessee, tenant, occupant, or other person in charge of any commercial establishment or premises which maintains any paved or unpaved areas for public use, either for parking or as access areas and incident to the carrying on of the principle business of any commercial establishment, or premises for which parking or access areas abut or lie within 10 feet of any public street or public way, must maintain the areas clean and free from trash, litter, rubbish and any materials liable to be blown, deposited or cast on the street or other public way.

CHAPTER 132: GRAFFITI CONTROL

Sec. 132.03—Application of Graffiti Prohibited Act: Provides that any person who applies graffiti to any natural or human-made surface of any publicly or privately owned property, without written permission of the owner, shall be subject to prosecution in accordance with G.S. 14-127, G.S. 14-160, and any other applicable statute.

Sec. 132.04—Removal of Graffiti by Perpetrator: In addition to the previous section, any person who is caught applying graffiti by a law enforcement officer within the Town has the affirmative duty to remove the graffiti within 24 hours after receiving notice to remove by the law enforcement officer. Failure to remove within 24 hours after receiving notice of the removal shall constitute as an additional violation.

Sec. 132.05—Unemancipated Minor; Parent/Legal Guardian Responsible: When graffiti is applied by an unemancipated minor, the parents or legal guardian shall also be responsible for the abatement of the graffiti and the costs associated thereof.

TITLE XV- LAND USAGE

CHAPTER 150: MINIMUM HOUSING CODE

Sec. 150.22—Fitness of Dwellings and Dwelling Units: Requires every dwelling and dwelling unit used as a human habitation to comply with the State Building Code and all of the minimum standards of fitness for human habitation, as well as the other requirements set forth in this Chapter of the Town Code. Prohibits any person to occupy as owner-occupant, or let another for occupancy or use as human habitation, any dwelling or dwelling unit which does not comply with the State Building Code and all minimum standards of fitness for human habitation and the other requirements set forth in this Chapter of Town Code.

Sec. 150.33—Failure to Comply with an Order: Upon the building inspector notifying an owner that his or her dwelling is unfit for human habitation or otherwise fails to comply with the minimum standards of fitness established by this Chapter, and has proceeded to cause the dwelling to be repaired, vacated, closed, removed, or demolished, prohibits the owner from occupying said dwelling or building.

Sec. 150.39—Violations: Prohibits an owner of any dwelling or dwelling unit (1) to fail, neglect or refuse to repair, alter or improve the same, or to vacate and close and remove or demolish the same, upon an order of the Building Inspector; and (2) with respect to an order by the Building Inspector pursuant to this chapter to occupy or permit the occupancy of said dwelling. Each day the occupancy continues or the failure, neglect, or refusal to comply with an order constitutes as a separate and distinct offense.

CHAPTER 152: UNIFIED DEVELOPMENT PROVISIONS

Sec. 152.009—No use or Sale of Land or Buildings Except in Conformity with Provisions: Subject to the certain provisions in the UDO, prohibits using, occupying, or selling any land or buildings or authorizing or permitting the use, occupancy or sale of land or buildings under his or her control except in accordance with all of the applicable provisions of this Chapter.

Sec. 152.033(B), (C)—Enforcement and Review: Prohibits the owner, tenant or occupant of any building or land or a part thereof and any architect, builder, contractor, agent of other person who participates in, assists, directs, creates or maintains any situation that is contrary to the requirements of this Chapter may be held responsible for these violations. Notwithstanding the foregoing, in situations where delay would seriously threaten the effective enforcement of the Chapter or pose a danger to the public health, safety or welfare, the Town's Administrator may seek enforcement and invoke any penalties set for in this Chapter of the UDO.

Sec. 152.257—Prohibited Signs: The following signs are strictly prohibited in the Town: (a) a sign which imitates or in any way approximates official highway signs; (b) any sign which obscures a sign displayed by a public authority; (c) signs displaying flashing, blinking, or intermittent lights, as well as signs that have moving displays; (d) portable or temporary signs as defined in this Chapter of the Town UDO; (e) signs that displays letter, logos, trademarks, pictures and the like on 3-D items as oversize facsimiles of chicken buckets, human figures, tin cans and the like, except as specifically allowed as wooden signs in the CBD district; (f) signs that obstruct driver vision of any vehicle entering a roadway into any street, drive-way, or parking lot; (g) commercial identification or advertising signs on any public utility poles, telephone poles, tress, parking meter poles, fences, benches and refuse containers, except the latter two may display a logotype or advertise business names; (h) pavement marking of any kind except those for traffic control; (i) signs which contain obscene words or words and pictures which offend the general public; (j) any sign located in such a way as to intentionally deny an adjoining property owner visual access to an existing sign; (k) billboards or off-premise advertising as defined in this Chapter of the UDO; (l) directional signs for restaurants, gasoline stations and the like; (m) flood lights or signs erected or places in such a manners as to cause a glare that impairs the drivers vision on a roadway or causes a nuisance to adjacent property; (n) signs places in the public right-of-way; (o) signs erected, constructed or maintained so as to obstruct any fire escape or any window or door or opening used as means of egress or so as to prevent free passage from one part of a roof to any other part thereof; (p) any signs that violates any provision of state law with regard to outdoor advertising; (q) any sign that does not comply with the requirements and regulations of this Chapter of the UDO; and (r) roof signs and signs that project above the roofline.

Sec. 152.258—Permit Procedure: Prohibits erecting, attaching, suspending, changing, or relocating any sign within the Town until a permit has been issued by the Town's Administrator.

Sec. 152.259—Signs which do not Require a Permit: A sign permit is not necessary for the following signs, provided they are not prohibited by Sec. 152.257 and complies with the conditions herein described. However, if the following signs exceeds the size or in any way does not comply with these limitations, they shall be subject to all other provisions of this Chapter, including obtaining a sign permit from the Town Administrator: (a) real estate signs; (b) construction signs which may be erected per construction entrance, signs must not exceed 32 square feet in area, and the signs must not be erected prior to the issuance of a building permit and must be removed within 10 days after the issuance of the final occupancy permit; (c) window signs that are attached temporarily to the interior of a building window or glass door where the signs, individually or collectively, must not cover more than 75% of the surface area of the transparent portion of the window or doors which they are attached; (d) political signs; and (e) yard sale/open house sigs.

Sec. 152.999—Penalty: Any person, firm or corporation who violates the provisions of the Towns Unified Development Ordinance shall be guilty of a misdemeanor.

